

S T A T E O F N E W Y O R K

6361--A

2009-2010 Regular Sessions

I N S E N A T E

December 30, 2009

Introduced by Sens. FOLEY, ADAMS, ADDABBO, HUNTLEY, C. JOHNSON, MAZIARZ, MONTGOMERY, MORAHAN, ONORATO, OPPENHEIMER, RANZENHOFER, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to youth drug and alcohol detoxification; and to amend the insurance law, in relation to providing benefits for treatment of chemical dependency in certain health insurance plans

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as "Denise's law".
2 S 2. The family court act is amended by adding a new article 10-B to
3 read as follows:
4 ARTICLE 10-B
5 YOUTH DRUG AND ALCOHOL DETOXIFICATION
6 S 1100. YOUTH DRUG AND ALCOHOL DETOXIFICATION.
7 S 1100. YOUTH DRUG AND ALCOHOL DETOXIFICATION. 1. FOR PURPOSES OF THIS
8 SECTION:
9 (A) "APPROVED APPLICANT" MEANS:
10 (I) WITH RESPECT TO A YOUTH:
11 (1) THAT YOUTH'S PARENT; OR
12 (2) A PERSON WITH WHOM THAT YOUTH HAS A CLOSE PERSONAL RELATIONSHIP;
13 OR
14 (II) A SOCIAL WORKER;
15 (B) "ASSESSED YOUTH" MEANS A YOUTH WHO IS THE SUBJECT OF A WARRANT
16 ISSUED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, WHO HAS BEEN
17 APPREHENDED FOR THE PURPOSES OF AN EXAMINATION OR WHO IS THE SUBJECT OF
18 A DETOXIFICATION ORDER;

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD15278-03-0

(C) "DETOXIFICATION FACILITY" MEANS A FACILITY IN NEW YORK STATE CERTIFIED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES;

(D) "DETOXIFICATION ORDER" MEANS AN ORDER ISSUED PURSUANT TO SUBDIVISION THIRTEEN OF THIS SECTION RESPECTING AN ASSESSED YOUTH.

2. AN APPROVED APPLICANT MAY PETITION THE COURT STATING THAT THE APPROVED APPLICANT BELIEVES ON REASONABLE GROUNDS THAT A YOUTH:

(A) IS SUFFERING FROM DRUG ADDICTION OR DRUG ABUSE;

(B) IS AT RISK OF SERIOUS HARM OR DANGER TO HIMSELF OR HERSELF OR TO ANOTHER PERSON;

(C) IS IN NEED OF DETAINMENT TO ENSURE HIS OR HER SAFETY OR THE SAFETY OF ANOTHER PERSON OR TO FACILITATE THE YOUTH'S DETOXIFICATION AND STABILIZATION; AND

(D) SHOULD BE EXAMINED BY A CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR TO DETERMINE WHETHER OR NOT THE YOUTH SHOULD BE ADMITTED TO A DETOXIFICATION FACILITY OR RECEIVE DETOXIFICATION AND STABILIZATION SERVICES.

3. IF THE JUDGE IS SATISFIED ON REASONABLE GROUNDS THAT THE YOUTH NAMED IN THE PETITION SHOULD BE EXAMINED BY A CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR TO DETERMINE WHETHER OR NOT THE YOUTH SHOULD BE ADMITTED TO A DETOXIFICATION FACILITY OR RECEIVE DETOXIFICATION AND STABILIZATION SERVICES, THAT JUDGE MAY, AFTER MAKING ARRANGEMENTS WITH A CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR WHO IS TO CONDUCT THE EXAMINATION, ISSUE A WARRANT IN THE PRESCRIBED FORM TO:

(A) APPREHEND THE YOUTH NAMED IN THE WARRANT; AND

(B) CAUSE THE YOUTH TO BE TAKEN TO THE CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR WHERE THE YOUTH MAY BE DETAINED AND MAY BE EXAMINED BY THAT CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR.

4. NO PERSON SHALL FALSELY SWEAR OR AFFIRM ANY INFORMATION PURSUANT TO THIS SECTION.

5. A WARRANT ISSUED PURSUANT TO SUBDIVISION THREE OF THIS SECTION SHALL BE ACCOMPANIED BY WRITTEN REASONS FOR ITS ISSUANCE.

6. A COPY OF A WARRANT ISSUED PURSUANT TO SUBDIVISION THREE OF THIS SECTION AND THE WRITTEN REASONS ARE TO BE PROVIDED TO THE CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR WHO EXAMINES THE YOUTH.

7. IF AN APPROVED APPLICANT SO REQUESTS, THE WARRANT MAY BE DIRECTED TO AND EXECUTED BY THAT APPROVED APPLICANT.

8. IF THE WARRANT IS NOT DIRECTED TO AN APPROVED APPLICANT PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION THE WARRANT MUST BE DIRECTED TO AND EXECUTED BY A POLICE OFFICER.

9. EVERY ASSESSED YOUTH:

(A) SHALL BE INFORMED OF THE REASON FOR HIS OR HER APPREHENSION OR DETENTION; AND

(B) IS ENTITLED TO RECEIVE A COPY OF THE ORDER PURSUANT TO WHICH HE OR SHE HAS BEEN APPREHENDED OR DETAINED.

10. A CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR SHALL EXAMINE THE ASSESSED YOUTH:

(A) AS SOON AS IS REASONABLY PRACTICABLE; AND

(B) IN ALL CASES WITHIN TWENTY-FOUR HOURS OF THE YOUTH'S APPREHENSION.

11. NO YOUTH SHALL BE APPREHENDED PURSUANT TO A WARRANT ISSUED PURSUANT TO SUBDIVISION THREE OF THIS SECTION MORE THAN SEVEN DAYS AFTER THE DATE ON WHICH THE WARRANT WAS ISSUED.

12. AFTER AN EXAMINATION BY A CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR, ALL OR ANY OF THE FOLLOWING MAY BE DONE:

(A) AN ARRANGEMENT FOR DETOXIFICATION AND STABILIZATION SERVICES MAY BE MADE BY A YOUTH;

(B) A DETOXIFICATION ORDER MAY BE ISSUED PURSUANT TO SUBDIVISION THIRTEEN OF THIS SECTION WITH RESPECT TO THE ASSESSED YOUTH.

13. (A) AFTER CONDUCTING AN EXAMINATION OF AN ASSESSED YOUTH FOR THE PURPOSES OF THIS SECTION AND IF THERE IS NO VOLUNTARY ARRANGEMENT MADE BY THE ASSESSED YOUTH, A CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR MAY RECOMMEND THE COURT ISSUE A DETOXIFICATION ORDER TO DETAIN THE ASSESSED YOUTH IN A DETOXIFICATION FACILITY.

(B) A DETOXIFICATION ORDER MAY BE ISSUED ONLY IF THE CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR IS OF THE OPINION THAT THE ASSESSED YOUTH:

(I) IS SUFFERING FROM DRUG ADDICTION OR DRUG ABUSE AND REQUIRES DETENTION TO FACILITATE DETOXIFICATION AND STABILIZATION;

(II) IS LIKELY TO CAUSE HARM TO HIMSELF OR HERSELF OR TO OTHER PERSONS, OR TO SUFFER SUBSTANTIAL MENTAL OR PHYSICAL DETERIORATION, IF HE OR SHE IS NOT DETAINED IN A DETOXIFICATION FACILITY; AND

(III) IS EITHER:

(1) UNABLE TO FULLY UNDERSTAND AND TO MAKE AN INFORMED DECISION RESPECTING HIS OR HER NEED TO DETOXIFY OR STABILIZE; OR

(2) UNABLE OR UNWILLING TO TAKE STEPS TO BEGIN RECOVERY FROM DRUG ADDICTION OR DRUG ABUSE OR TO REDUCE THE RISK OF HARM TO HIMSELF OR HERSELF OR OTHER PERSONS;

14. (A) AN ASSESSED YOUTH, OR A PERSON ON BEHALF OF AN ASSESSED YOUTH, MAY APPEAL THE DECISION OF THE COURT ISSUING THE WARRANT PURSUANT TO SUBDIVISION THREE OF THIS SECTION OR THE DETOXIFICATION ORDER ISSUED BY THE CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR WITHIN SEVEN DAYS AFTER THE DATE OF THE DECISION OR WITHIN ANY LONGER PERIOD THAT THE JUDGE MAY ALLOW.

(B) AN APPEAL PURSUANT TO THIS SECTION MAY BE MADE BY NOTICE OF MOTION, AND THE NOTICE OF MOTION IS TO BE SERVED ON:

(I) THE COURT;

(II) THE PERSON IN CHARGE OF A DETOXIFICATION FACILITY IN WHICH THE ASSESSED YOUTH IS DETAINED; AND

(III) ANY OTHER PERSONS THAT THE JUDGE MAY DIRECT.

(C) AN APPEAL PURSUANT TO THIS SECTION IS TO BE SUPPORTED BY AN AFFIDAVIT OF THE APPELLANT SETTING FORTH FULLY THE FACTS IN SUPPORT OF THE APPEAL.

(D) IN ADDITION TO THE EVIDENCE ADDUCED BY THE APPELLANT, THE JUDGE MAY DIRECT ANY FURTHER EVIDENCE TO BE GIVEN THAT THE JUDGE CONSIDERS NECESSARY.

(E) THE JUDGE MAY CONFIRM OR REVERSE THE DECISION TO ISSUE A WARRANT OR THE DETOXIFICATION ORDER RECOMMENDED BY THE CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR AND MAY MAKE ANY ORDER THAT THE JUDGE CONSIDERS NECESSARY TO GIVE EFFECT TO THE JUDGE'S DECISION.

S 3. Subparagraph (A) of paragraph 5 of subsection (1) of section 3221 of the insurance law, as amended by chapter 502 of the laws of 2007, is amended to read as follows:

(A) Every insurer delivering a group or school blanket policy or issuing a group or school blanket policy for delivery, in this state, which provides coverage for inpatient hospital care or coverage for physician services shall provide as part of such policy broad-based coverage for the diagnosis and treatment of mental, nervous or emotional disorders or ailments, however defined in such policy, at least equal to the coverage provided for other health conditions and:

(i) where the policy provides coverage for inpatient hospital care, benefits for inpatient care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law, which benefits may be limited

1 to not less than thirty days of active treatment in any contract year,
2 plan year or calendar year, and benefits for outpatient care provided in
3 a facility issued an operating certificate by the commissioner of mental
4 health pursuant to the provisions of article thirty-one of the mental
5 hygiene law, or in a facility operated by the office of mental health,
6 which benefits may be limited to not less than twenty visits in any
7 contract year, plan year or calendar year. Benefits for partial hospi-
8 talization program services shall be provided as an offset to covered
9 inpatient days at a ratio of two partial hospitalization visits to one
10 inpatient day of treatment. BENEFITS REGARDING DETOXIFICATION AND REHA-
11 BILITATION CARE AND TREATMENT OF CHEMICAL ABUSE AND CHEMICAL DEPENDENCE
12 SHALL BE PROVIDED IN ACCORDANCE WITH PARAGRAPH SIX OF THIS SUBSECTION.

13 (ii) where the policy provides coverage for physician services, it
14 shall include benefits for outpatient care provided by a psychiatrist or
15 psychologist licensed to practice in this state, a licensed clinical
16 social worker who meets the requirements of subparagraph (D) of para-
17 graph four of this subsection, or a professional corporation or univer-
18 sity faculty practice corporation thereof[. Such benefits may be limited
19 to not less than twenty visits in any contract year, plan year, or
20 calendar year]; PROVIDED, HOWEVER, THAT BENEFITS REGARDING DETOXIFICA-
21 TION AND REHABILITATION CARE AND TREATMENT OF CHEMICAL ABUSE AND CHEMI-
22 CAL DEPENDENCE SHALL BE PROVIDED IN ACCORDANCE WITH PARAGRAPH SIX OF
23 THIS SUBSECTION.

24 (iii) Coverage required by this paragraph may be provided on a
25 contract year, plan year or calendar year basis and shall be consistent
26 with the provision of other benefits under the policy. Such coverage may
27 be subject to annual deductibles, co-pays and coinsurance as may be
28 deemed appropriate by the superintendent and shall be consistent with
29 those imposed on other benefits under the policy. In the event that a
30 policy provides coverage for both inpatient hospital care and physician
31 services, the aggregate of the benefits for outpatient care obtained
32 under this paragraph may be limited to not less than twenty visits in
33 any contract year, plan year or calendar year.

34 [(iv) In this paragraph, "active treatment" means treatment furnished
35 in conjunction with inpatient confinement for mental, nervous or
36 emotional disorders or ailments that meet standards prescribed pursuant
37 to the regulations of the commissioner of mental health.]

38 S 4. Paragraphs 6 and 7 of subsection (1) of section 3221 of the
39 insurance law, paragraph 6 as amended by chapter 558 of the laws of 1999
40 and paragraph 7 as amended by chapter 565 of the laws of 2000, are
41 amended to read as follows:

42 (6) (A) Every insurer delivering a group or school blanket policy or
43 issuing a group or school blanket policy for delivery, in this state,
44 which provides coverage for inpatient hospital care [must make available
45 and, if requested by the policyholder,] SHALL provide AS PART OF SUCH
46 POLICY coverage for the diagnosis and treatment of chemical abuse and
47 chemical dependence, however defined in such policy, provided, however,
48 that the term chemical abuse shall mean and include alcohol and
49 substance abuse and chemical dependence shall mean and include alcohol-
50 ism and substance dependence, however defined in such policy. Written
51 notice of the availability of such coverage shall be delivered to the
52 policyholder prior to inception of such group policy and annually there-
53 after, except that this notice shall not be required where a policy
54 covers two hundred or more employees or where the benefit structure was
55 the subject of collective bargaining affecting persons who are employed
56 in more than one state.

(B) Such coverage shall be at least equal to [the following] COVERAGE PROVIDED FOR OTHER HEALTH CONDITIONS AND SHALL INCLUDE:

(i) [with respect to] benefits for detoxification as a consequence of chemical dependence, inpatient benefits in a hospital or a detoxification facility [may not be limited to less than seven days of active treatment in any calendar year]; and

(ii) [with respect to] benefits for rehabilitation services, [such benefits may not be limited to less than thirty days of] AND inpatient care in [any calendar year] A HOSPITAL OR REHABILITATION FACILITY.

(C) Such coverage may be limited to facilities in New York state which are certified by the office of alcoholism and substance abuse services and, in other states, to those which are accredited by the joint commission on accreditation of hospitals as alcoholism, substance abuse or chemical dependence treatment programs.

(D) Such coverage shall be [made available] PROVIDED at the inception of all new policies and with respect to all other policies at any anniversary date of the policy [subject to evidence of insurability].

(E) Such coverage may be subject to annual deductibles and co-insurance as may be deemed appropriate by the superintendent and are consistent with those imposed on other benefits within a given policy. [Further, each insurer shall report to the superintendent each year the number of contract holders to whom it has issued policies for the inpatient treatment of chemical dependence, and the approximate number of persons covered by such policies.]

(F) Such coverage shall not replace, restrict or eliminate existing coverage provided by the policy.

(7) Every insurer delivering a group or school blanket policy or issuing a group or school blanket policy for delivery in this state which provides coverage for inpatient hospital care [must] SHALL provide AS PART OF SUCH POLICY, coverage for [at least sixty] outpatient [visits in any calendar year] CARE for the diagnosis and treatment of chemical dependence [of which up to twenty may be for family members, except that] AT BEST EQUAL TO THE COVERAGE PROVIDED FOR OTHER HEALTH CONDITIONS. HOWEVER, this provision shall not apply to a policy which covers persons employed in more than one state or the benefit structure of which was the subject of collective bargaining affecting persons who are employed in more than one state. Such coverage may be limited to facilities in New York state certified by the office of alcoholism and substance abuse services or licensed by such office as outpatient clinics or medically supervised ambulatory substance abuse programs and, in other states, to those which are accredited by the joint commission on accreditation of hospitals as alcoholism or chemical dependence treatment programs. Such coverage may be subject to annual deductibles and co-insurance as may be deemed appropriate by the superintendent and are consistent with those imposed on other benefits within a given policy. Such coverage shall not replace, restrict, or eliminate existing coverage provided by the policy. Except as otherwise provided in the applicable policy or contract, no insurer delivering a group or school blanket policy or issuing a group or school blanket policy providing coverage for alcoholism or substance abuse services pursuant to this section shall deny coverage to a family member who identifies himself as a family member of a person suffering from the disease of alcoholism, substance abuse or chemical dependency and who seeks treatment as a family member who is otherwise covered by the applicable policy or contract pursuant to this section. The coverage required by this paragraph shall include treatment as a family member pursuant to such family

1 members' own policy or contract provided such family member [(i) does
2 not exceed the allowable number of family visits provided by the appli-
3 cable policy or contract pursuant to this section, and (ii)] is other-
4 wise entitled to coverage pursuant to this section and such family
5 members' applicable policy or contract.

6 S 5. Paragraphs 18 and 19 of subsection (b) of section 4322 of the
7 insurance law, as added by chapter 504 of the laws of 1995, are amended
8 to read as follows:

9 (18) Inpatient diagnosis and treatment of alcoholism and alcohol abuse
10 and substance abuse and [substance] CHEMICAL dependence [up to thirty
11 days per calendar year] AND for detoxification [combined with inpatient
12 treatment of mental, nervous or emotional disorders or ailments].

13 (19) Outpatient diagnosis and treatment of mental, nervous or
14 emotional disorders or ailments [up to thirty non-emergency and three
15 emergency visits per calendar year] AND DISORDERS OF ALCOHOLISM AND
16 ALCOHOL ABUSE AND SUBSTANCE ABUSE AND CHEMICAL DEPENDENCE.

17 S 6. Severability. If any clause, sentence, paragraph, section or part
18 of any provision of this act be adjudged by any court of competent
19 jurisdiction to be invalid, such judgment shall not affect, impair or
20 invalidate the remainder thereof, but shall be confined in its operation
21 to the clause, sentence, paragraph, section or part of the provision
22 directly involved in the controversy in which such judgment shall have
23 been rendered.

24 S 7. This act shall take effect on the first of January next succeed-
25 ing the date on which it shall have become a law; provided, however,
26 that this act shall apply to all policies and contracts issued, renewed,
27 modified, altered or amended on or after such effective date; and
28 provided further, however, that any rules and regulations necessary for
29 the implementation of the provisions of this act on its effective date
30 are authorized and directed to be promulgated on or before such date.